

REMARKS/ARGUMENTS

Prior to entry of this Amendment, the application included claims 1 – 5, 7, 11 – 15, 17, 21 – 25, 27, and 31 – 41. Claims 1, 21, 40, and 41 are amended; claims 33 and 39 are canceled; and no claims are added. Hence, after entry of this Amendment, claims 1 – 5, 7, 11 – 15, 17, 21 – 25, 27, 31, 32, 34 – 38, and 40 – 41 are pending for examination. Applicant respectfully requests reconsideration of the application as amended.

Claim Amendments

Claims 1 and 21 are amended substantially to incorporate recitations from now-canceled claims 33 and 39, respectively. Claims 40 and 41 are amended only to ensure proper antecedent basis. As such, no new matter is added by these amendments.

Rejections Under 35 U.S.C. § 103(a)

Independent claims 1, 11, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the cited portions of U.S. Patent Publication No. 2004/0204938 to Wolfe et al. ("Wolfe"), in view of the cited portions of U.S. Patent No. 6,604,124 to Archbold ("Archbold"). To establish a *prima facie* case of obviousness, the cited references, combined with the knowledge of those of ordinary skill in the art, must teach or suggest all the claim limitations. Applicant respectfully traverses this rejection at least because the combination of Wolfe, Archbold, and ordinary knowledge in the art fails to teach or suggest all the recitations of the independent claims.

Specifically, neither Wolfe nor Archbold can be relied upon to teach or suggest "generating a statistical metric at the Web server at least partially as a function of a level of performance of said remote transcription provider relating to transcribing said recorded message into said transcript file; and managing a transcription workload of said remote transcription provider as a function of said statistical metric," as recited in amended claims 1 and 21. Claim 11 includes similar recitations. The Office Action correctly concedes that these recitations are

not taught by Wolfe and instead relies solely on Archbold. Office Action, pp. 3 – 4 (citing Archbold, col. 3, ll. 12 – 20; col. 4, ln. 35 – col. 5, ln. 2).

While the cited portions of Archbold generally discuss statistical metrics and management functions, they do not appear to provide any teaching or suggestion of (1) generating the statistical metrics as a function of performance of the remote transcription provider in transcribing the recorded message into the transcript file, or (2) managing a transcription workload of the remote transcription provider as a function of the statistical metric. Regarding the first missing recitation, the cited portions of Archbold describe "statistical records" as specifically relating to "analysis, general ledger, payroll, and billing" (col. 4, ln. 45). This is different from generating statistics *as a function of performance of the remote transcription provider*.

Regarding the second missing recitation, the cited portions of Archbold state only that SUPERMOM "provides the general top level management decision making information for its large international company" (col. 4, ln. 67 – col. 5, ln. 2). First, a general statement that Archbold manages general top level decision making for a large international company is insufficient to teach or suggest specifically *managing transcription workloads of remote transcription providers*. Second, there appears to be no teaching or suggestion that even the general management functions of Archbold are performed *as a function of the statistical metric*.

For at least these reasons, both Wolfe and Archbold fail to teach or suggest the recitations of claims 1, 11, and 21. Further, the Office Action does not provide any teaching from other art or reason why this recitation would be within the knowledge of a person of ordinary skill in the art. As such, Applicant believes the combined teachings of the art, as cited by the Office Action, fail to establish a *prima facie* case of obviousness as to the independent claims. Therefore, claims 1, 11, and 21 are allowable; and claims 2 – 5, 7, 12 – 15, 17, 22 – 25, 27, 31, 32, 34 – 38, and 40 – 41 are also allowable for at least the reason that each depends from an allowable base claim. Applicant, therefore, respectfully requests that the §103(a) rejections to all the claims be withdrawn.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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